

# Agenda Item 11

## Consideration of a Proposed Resolution Regarding the Section 401 Water Quality Certification Application for the Klamath Hydroelectric Project (KHP)

(Federal Energy Regulatory Commission Project No. 2082)

July 17, 2012, State Water Board Meeting



# Presentation Outline

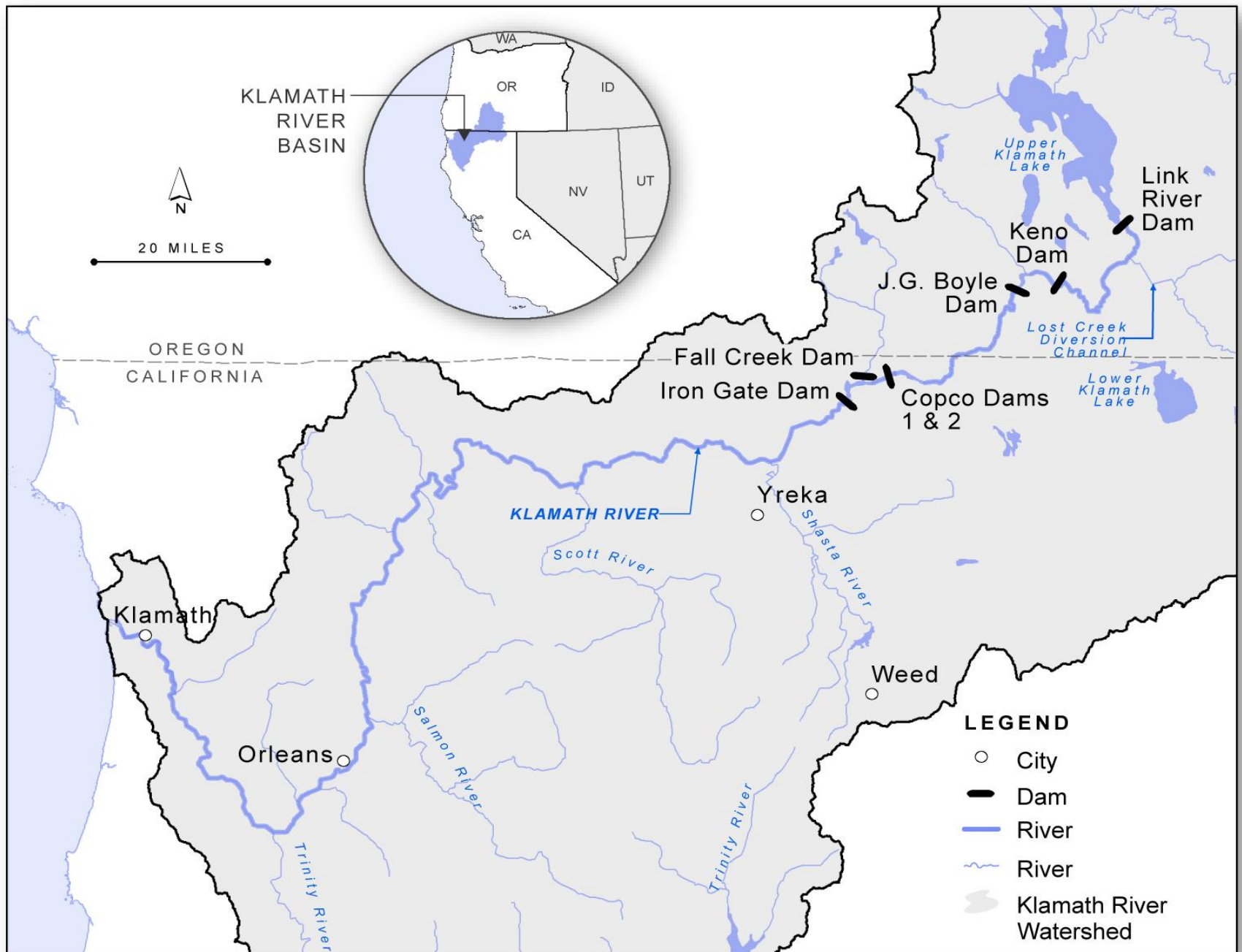
- Purpose
- Background on KHP & Associated 401 Water Quality Certification
- Related Activities
  - KHSA & KBRA
- Comments & Staff Recommendation



# Purpose

- Determine whether the State Water Board should allow existing abeyance of PacifiCorp's KHP water quality certification to lift or extend the abeyance





# Water Quality Certification

- Section 401 of Clean Water Act
- Becomes part of FERC license
- Imposes conditions to ensure projects meet water quality standards and other appropriate requirements of state law
- Timeline



# Water Quality Certification

## (Continued)

- California Environmental Quality Act
  - Use existing contract or execute new contract
  - Steps: Scoping; Issue Draft; Public Comment; Response to Comments; Adoption
- Estimate two years from re-start of water quality certification process to issuance of final water quality certification



# Abeyances

- Resolution No. 2010-0024 (May 18, 2010)
- Resolution No. 2010-0049 (October 5, 2010)
- Resolution No. 2011-0038 (August 16, 2011)
  - Abeyance lifts July 29, 2012, if no action is taken by State Water Board to extend abeyance



# Klamath Hydroelectric Settlement Agreement (KHSA)

- Framework for decision-making for removal of four main stem dams and implementation of decision to remove
  - Dam removal in 2020, if approved
  - Federal legislation (SB 1851 & HB 3398)
    - Secretarial Determination
    - Halt FERC relicensing



# KHSA Interim Measures (IM)

- PacifiCorp to implement water quality measures in advance of dam removal
- IM #10: Water Quality Workshop
  - September 11-13, 2012
  - 30 percent design documents
- IM #11: Water Quality Projects and Studies
- IM #15: Water Quality Monitoring



# Klamath Basin Restoration Agreement (KBRA)

- Companion agreement to KHSA
- Focus on water diversion amounts and distribution of water in the Upper Klamath Basin for agriculture, wildlife refuges, etc.
  - Resolves upper basin adjudication issues in Oregon
- Habitat restoration
- Requires dam removal for implementation



# Organizations Supporting Continuance of Abeyance

- California Trout
- California Natural Resources Agency & California Department of Fish and Game (on behalf of KHSA Parties)
- County of Humboldt (on behalf of Klamath Basin Coordinating Committee)
- Karuk Tribe (on behalf of KHSA Parties)
- Klamath Riverkeeper



# Organizations Supporting Continuance of Abeyance

(Continued)

- Mid Klamath Watershed Council
- The Klamath Tribes
- Pacific Coast Federation of Fishermen's Associations
- PacifiCorp Energy
- Salmon River Restoration Council



# Organizations and Individuals Opposing Abeyance

- County of Siskiyou
- Hoopa Valley Tribal Council
- Ken Miller, MD
- Sierra Club



# Staff Recommendation

- Staff recommends adoption of proposed resolution to extend abeyance until June 30, 2013, that provides for:
  - PacifiCorp or other parties to provide:
    - \$30,000 for Klamath Basin Monitoring Program
    - \$50,000 to support IM #10 design documents
  - Earlier lifting of abeyance under certain circumstances



# Staff Recommendation

## (Continued)

- Proposed resolution also provides for:
  - State Water Board to hold workshop prior to June 30, 2013, to receive information on KHSA progress
  - Annual withdrawal and resubmittal of PacifiCorp's water quality certification application

*\*Replaces previously issued resolutions*



# Questions?

